

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COMAU, INC.

Employer

and

Case 7-RD-3644

WILLIE RUSHING

Petitioner

and

AUTOMATED SYSTEMS WORKERS LOCAL 1123,  
A DIVISION OF MICHIGAN REGIONAL COUNCIL  
OF CARPENTERS, UNITED BROTHERHOOD OF  
CARPENTERS AND JOINERS OF AMERICA

Union

and

COMAU EMPLOYEES ASSOCIATION (CEA)

Intervenor

ORDER

The Employer's, the Petitioner's, and the Intervenor's Requests for Review of the Regional Director's Decision and Order dismissing the petition are denied as they raise no substantial issues warranting reversal of the Regional Director's action. In Comau, Inc., 356 NLRB No. 21 (November 5, 2010), the Board found that the Employer violated Section 8(a)(5) and (1) of the Act by unilaterally implementing a health insurance plan in the absence of an agreement or bona fide impasse. The Board imposed, inter alia, an affirmative bargaining order remedy for the Employer's unilateral change violation. An affirmative bargaining order precludes the question concerning representation raised by the petition and requires that the petition be dismissed.<sup>1</sup> NLRB Casehandling Manual,

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<sup>1</sup> An affirmative bargaining order necessarily precludes the question concerning representation raised by the petition, as processing the petition would be inconsistent with the Employer's bargaining obligation. Big Three Industries, 201 NLRB 197 (1973); Brannan Sand & Gravel, 308 NLRB 922 (1992); BOC Group, 323 NLRB 1100 (1997); NLRB Casehandling Manual, Part Two, Representation Proceedings Sec. 11730.3(b).

Part Two, Representation Proceedings, Sec. 11733.2(a)(2).<sup>2</sup> Accordingly, the dismissal of the petition is affirmed.<sup>3</sup>

WILMA B. LIEBMAN, CHAIRMAN

CRAIG BECKER, MEMBER

MARK GASTON PEARCE, MEMBER

Dated, Washington, D.C., March 9, 2011.

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<sup>2</sup> We therefore find it unnecessary to rely on the Regional Director's finding that there was a causal relationship between the Employer's unlawful unilateral implementation of a new health care plan and the decertification petition under Master Slack, 271 NLRB 78 (1984).

<sup>3</sup> The petition is subject to reinstatement, if appropriate, after final disposition of the unfair labor practice proceeding in Case 7-CA-52106. Accordingly, the Petitioner is made a party in interest to Case 7-CA-52106 solely for the purpose of receiving notification of the final outcome of that case. See generally, NLRB Casehandling Manual, Part Two, Representation Proceedings, Sec. 11733.2(b).